

REMARKS

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. Claims 1-23 were originally presented. Claims 6, 8, 9, 11, and 15 (having been allowed in the parent case) were canceled by preliminary amendment. Claims 1-5, 7, 10, 12-14, and 16-23 remain in the application. By this amendment, independent claims 1, 22, and 23 have been amended. New dependent claims 24 and 25 have been added. No new matter has been added.

Substance of Interview

The Applicant thanks the Examiner for granting a telephonic interview on Friday October 15, 2004 to discuss the Final Office Action and a proposal of the amendments that are presented herein. In the interview, the Examiner agreed that these amendments overcome the cited art, but asserted that the amendments raise new issues which will require additional searching, and would not be entered. A discussion of this issue is provided below.

Claim Rejections - 35 U.S.C. § 103

Claims 1-5, 7, 10, 12-14, 16-20, 22, and 23 (including independent claims 1, 22, and 23) were rejected under 35 U.S.C. § 103 as being unpatentable over Nagayama et al in view of Wayman et al. The Examiner also rejected claim 21 under 35 U.S.C. § 103 as being unpatentable over Nagayama et al in view of Wayman et al and Yoneda et al. The following discussion will focus on independent claims 1, 22, and 23, with the understanding that once an independent claim is allowable, all claims depending therefrom are allowable.

Independent claims 1 and 23 have been amended to include the limitations that the length of the belt adjacent the print path is adjustable between “more than two” and “at least three” positions, respectively. This amendment is supported by the original specification, which clearly discloses, both in the figures and in the specification, that multiple positions are possible. For example, as noted in a previous amendment, the specification states that the belt has “several different positions.” P. 6 ln. 21-22. It further states that the belt structure can take any of several “discrete” positions, p. 6 ln. 25, and that it can take “positions . . . between” its maximum energy and minimum energy positions. P. 7 ln. 23. Similarly, the

figures show more than two positions of adjustable. This disclosure clearly supports the claim limitations of “more than two” and “at least three” positions.

This limitation distinguishes the present invention from the prior art cited by the Examiner. None of the references cited teach or suggest a system wherein fusing energy for print media is variable by means of varying a length of a belt between more than two positions within a range.

The Applicant has also amended claim 22 and added dependent claims 24 and 25, which include the limitation that the length of the belt adjacent the print path is “selectively continuously variable” within a range. This limitation is supported by the original specification, which clearly teaches that the system can be configured to have multiple discrete positions, but can also be configured to be adjustable to any position within the range of adjustability. For example, the detailed description states that “in one embodiment *any angular orientation* of the frame/idler/belt assembly relative to the guide is possible. In another embodiment a plurality of ‘stops’ (not shown) provides a plurality of discrete possible angular positions” P. 6 ln. 21-25 (emphasis added).

The language “*any angular orientation*” clearly supports the “continuously variable” limitation because adjustment among any angular orientation of the belt will inherently provide continuous variability. This is particularly true when contrasted with the disclosure that the system can be configured with multiple discrete stops. The clear implication is that multiple discrete stops can be used, but need not be, leaving only the option of a system with a range of variability, but no discrete stops. This would be a continuously variable system.

This reasoning and clear intent applies to all embodiments disclosed in the application. For example, the specification notes that “[s]hown in FIG. 5 are several possible positions of the first roller and idler, providing various effective thermal nip widths from a large width W_{n2} to a smaller width, W_{n1} . It will be apparent that *positions providing widths between W_{n2} and W_{n1} are possible. . . .*” P. 7 ln. 21-24 (emphasis added). This language acknowledges that only a few possible positions are shown, and clearly implies that other positions are possible. Because the positions are not specifically detailed, one of skill in the art would naturally infer that a continuously variable range of positions is consistent with the disclosure. Likewise, because this language notes that positions (plural) between the endpoints of the range of adjustment can be used, and does not indicate a necessary limitation

of discrete positions, continuous variability is encompassed within the disclosed invention because continuous variability is the only other option.

The Applicant respectfully submits that this limitation is not taught or suggested by the cited prior art. As noted above, none of the references cited by the Examiner teach or suggest a system wherein fusing energy for print media is variable by means of varying a length of a belt between more than two positions within a range, let alone varying the length of the belt along a continuous range of positions within a range. Accordingly, the Applicant respectfully submits that the claims as now presented are allowable over the cited art, and requests that the Examiner withdraw the rejections.

Contrary to the Examiner's assertion in the telephonic interview, the Applicant respectfully submits that these amendments do not raise new issues that would require additional searching. The current amendments relate to the quantity or degree of adjustability of the position of the belt structure. This issue was addressed in the Applicant's previous amendment and in the Examiner's response to the Applicant's arguments. In the prior amendment the Applicant noted that "Nagayama discloses two embodiments of a system wherein a position of a belt is adjustable . . . [but] [t]here is no suggestion that the belt position can be varied *between* the two positions." In the prior amendment, the Applicant argued that the language "adjustable within a range" conveyed the distinction that the belt structure has several different positions within a range, or is variable throughout a range.

In response to the Applicant's prior arguments, the Examiner acknowledged that the quantity or degree of adjustability is the issue raised by the Applicants arguments, but simply disagreed that the claim language adequately conveyed that distinction. The Examiner took the position that adjustability between two and only two positions (as shown in the prior art) can be considered to be "within" a range based on the definition of the term "within" as relating to the quantity or degree of something being not beyond a limit. While acknowledging this issue, the Examiner concluded that "the features upon which applicant relies (i.e. 'several different positions') are not recited in the rejected claims." Office Action mailed 08/18/04, 5.

The Applicant has now amended the claims precisely as suggested by the Examiner's response, to present language that recites the features discussed in the arguments in a way that

10011453-3

clearly distinguishes over the cited prior art. That is, by claiming that the belt structure is adjustable to "more than two positions" or is "continuously variable," the Applicant has addressed the issue previously identified, with language that distinguishes over the prior art. Because this language specifically addresses the quantity or degree of adjustability, and this specific issue was identified by the Applicant and the Examiner, the Applicant submits that this is not a new issue, and thus the present amendment should be entered.

Upon entry of this amendment, the Applicant respectfully submits that all pending claims are now allowable over the cited art, in accordance with the Examiner's indication in the telephonic interview, and urges the Examiner to withdraw the rejections and allow the application to issue.

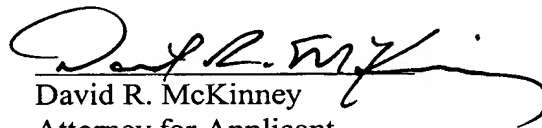
CONCLUSION

In view of the foregoing, the Applicant respectfully requests that the Examiner withdraw the rejections and allow claims 1-5, 7, 10, 12-14, and 16-25 to pass to issuance. If any issues arise that could be resolved during a telephone interview, the Examiner is invited to telephone the undersigned attorney, or Vaughn W. North at (801) 566-6633, so that such issues may be resolved as expeditiously as possible.

Please charge any additional fees except for Issue Fee or credit any overpayment to Deposit Account No. 08-2025

Dated this 18th day of October, 2004.

Respectfully submitted,



David R. McKinney
Attorney for Applicant
Registration No. 42,868

THORPE NORTH & WESTERN, LLP
8180 South 700 East, Suite 200
Sandy, Utah 84070
(801) 566-6633

On behalf of:

HEWLETT-PACKARD COMPANY